Monitoring Result of
VIOLATIONS OF POLITICAL NEUTRALITY OF ASN
In 2019 General Election
Monitoring Result of VIOLATIONS OF POLITICAL NEUTRALITY OF ASN in 2019 General Election
Monitoring Result of Violations of Political Neutrality of ASN in 2019 General Election

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<th>Description</th>
</tr>
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<tbody>
<tr>
<td>ASN</td>
<td>Aparatur Sipil Negara (Civil Servants)</td>
</tr>
<tr>
<td>Bawaslu</td>
<td>Badan Pengawas Pemilu (Elections Oversight Body)</td>
</tr>
<tr>
<td>BKN</td>
<td>Badan Kepegawaian Negara (State Personnel Agency)</td>
</tr>
<tr>
<td>CSO</td>
<td>Civil Society Organization</td>
</tr>
<tr>
<td>KASN</td>
<td>Komisi Aparatur Sipil Negara (Civil Servants Commission)</td>
</tr>
<tr>
<td>KemenPAN RB</td>
<td>Kementerian Pendayagunaan Aparatur Negara Reformasi Birokrasi (Ministry of Administrative Reform)</td>
</tr>
<tr>
<td>KPPOD</td>
<td>Komite Pemantau Pelaksanaan Otonomi Daerah (Committee for the Monitoring of the Implementation of Regional Autonomy)</td>
</tr>
<tr>
<td>KPU</td>
<td>Komisi Pemilihan Umum (General Elections Commission)</td>
</tr>
<tr>
<td>KY</td>
<td>Komisi Yudisial (Judicial Commission)</td>
</tr>
<tr>
<td>LAPOR!</td>
<td>Layanan Aspirasi dan Pengaduan Online Rakyat (People's Online Complaints and Aspirations Service)</td>
</tr>
<tr>
<td>MA</td>
<td>Mahkamah Agung (Supreme Court)</td>
</tr>
<tr>
<td>PATTIRO</td>
<td>Pusat Telaah dan Informasi Regional</td>
</tr>
<tr>
<td>Pemilu</td>
<td>Pemilihan Umum (General Elections)</td>
</tr>
<tr>
<td>Pilleg</td>
<td>Pemilihan Anggota Legislatif (Legislative Elections)</td>
</tr>
<tr>
<td>Pilkada</td>
<td>Pemilihan Kepala Daerah (Regional Head Elections)</td>
</tr>
<tr>
<td>Pilpres</td>
<td>Pemilihan Presiden (Presidential Elections)</td>
</tr>
<tr>
<td>PNS</td>
<td>Pegawai Negeri Sipil (Civil Servant)</td>
</tr>
<tr>
<td>PPK</td>
<td>Pejabat Pembina Kepegawaian (Staff Supervisory Official)</td>
</tr>
<tr>
<td>SP4N</td>
<td>Sistem Pengelolaan Pengaduan Pelayanan Publik Nasional (National Public Service Complaints Management System)</td>
</tr>
</tbody>
</table>
1.1. Background

Based on the number of participants in the General Elections, Indonesia is the largest democracy in Southeast Asia, and the third largest in the world, after India and the United States.¹

The large number of voters shows the public’s enthusiasm in determining government leaders: presidents and regional leaders, as well as electing their representatives in parliament both at the national and regional levels. In addition, the guarantee of freedom of voting is also a factor causing the high enthusiasm.

The guarantee of freedom of the people to participate in the General Election is regulated in the 1945 Constitution, as the state’s constitution. This is stated in Article 28D paragraph 3, which reads, “Every citizen has the right to have the same opportunity in governance”, and Article 28E paragraph 3, which reads, “Everyone has the right to freedom of association, assembly and expression.”

This constitutional guarantee is then further specified in legislation. Law Number 39 of 1999 concerning Human Rights, in Part Eight: Right to Participate in Government, especially Article 43 paragraph 1, states, “Every citizen has the right to be elected and to vote in elections, based on equality of rights through voting that is direct, universal, free, confidential, honest and fair in accordance with statutory provisions”. Whereas in paragraph 2, it is stated, “Every citizen has the right to participate in government directly or through the mediation of freely chosen representatives, in a manner prescribed in legislation”.

Meanwhile, Law Number 7 of 2017 concerning General Elections (Election Law) guarantees the right of citizens to vote, as stated in Article 198 paragraph 1 and paragraph 2, that “Indonesian citizens who are on the day of voting are already 17 years old or more, have been married, or have already married, have the right to vote. The referred Indonesian citizen is registered 1 (one) time by the Election Organizer in the Voter List.”

The Civil Servant (ASN), as part of Indonesian citizens, also has the right to vote. However, unlike other citizens, ASNs are prohibited from publicly indicating a preference in their political choices, as a consequence of the principle of neutrality in the implementation of policies and management of ASN as stipulated in Law No. 5 of 2014 on ASN (ASN Law). Furthermore, the ASN Law states, “ASN employees must be free from the influence

and intervention of all groups and political parties” (Article 9 paragraph 2). The neutrality of ASN in politics is part of the implementation of the ASN’s function as an adhesive and unifier of the nation. Thus, even though ASN has the right to vote, they must still uphold neutrality as mandated by the ASN Law.

The Election Law firmly regulates ASN neutrality in elections. In Article 280 paragraph 2 letter f, it is stated, “The implementing and/or campaigning teams in the Election Campaign activities are prohibited to involve the civil servants.” Paragraph 3 stated that the civil servants are barred from participating as the implementing and campaigning team in the Elections. The ASN who violates Article 280 paragraph 3 may be subject to criminal sanctions, with a maximum sentence of one year and a maximum fine of Rp 12 millions (Article 494 of the Election Law). The ASN are also prohibited from holding activities that lead to bias towards certain Election participants before, during, and after the campaign period. The prohibited activities include meetings, invitations, appeals, shoutouts or giving goods to the ASN in the work unit environment, family members, and the community. (Article 283 paragraphs 1 and 2).

Referring to the ASN Law, the Civil Servants Commission (KASN) is an institution that is given the task to maintain the neutrality of ASN (Article 31 paragraph 1 letter a). The existence of arrangements regarding this special task shows that the neutrality of ASN is very important. Neutrality is one of the determining factors for the realization of an ASN which has integrity, professionalism in service delivery and ability to play a role as an adhesive element of national unity. In carrying out this task, KASN has conducted socialization through various media as a preventive effort to minimize the occurrence of neutrality violations. In addition to preventive measures, KASN also undertakes repressive or legal actions by providing an online complaint platform through the complaint channel www.lapor.kasn.go.id. This platform is provided for the public to denounce violations of neutrality committed by ASN. With this platform, KASN is facilitated in monitoring violations, so that they can quickly take action against these violations. Based on the mechanism stipulated in the ASN Law, after receiving a report, KASN then conducts verification. If proven, the KASN will send a recommendation to the supervisor or the Staff Supervisory Official (PPK) at the agency where the ASN works, for the determination of sanctions to be processed (Article 32).

In order to increase the contribution of Civil Society Organizations (CSOs) to the enforcement of the neutrality of ASN, PATTIRO, KPPOD and the network of CSOs in four cities, namely Jakarta, Bandung, Semarang and Surabaya, are monitoring the political neutrality of ASN during the 2019 Election. This monitoring is expected to support KASN in finding more cases of violations of ASN neutrality.
1.2. Scope of Monitoring

As described in the Background section above, the monitoring conducted by PATTIRO, KPPOD and CSO networks is done in the context of increasing the contribution of CSOs to the enforcement of ASN neutrality and supporting KASN in finding cases of neutrality violations. Referring to the ASN Law, the task of ASN supervision carried out by KASN is in the context of enforcing moral sanctions. Thus, the scope of this monitoring is limited to violations of ASN neutrality which only contain elements of moral sanctions, not criminal sanctions. Violations of ASN neutrality that contain criminal elements as referred to in Article 280 paragraph 3 of the Election Law become the authority of the Election Oversight Body (Bawaslu), not KASN.

Referring to the Election Law, violations of ASN neutrality which contain moral sanctions are violations as referred to in Article 283 paragraph 1 and paragraph 2. In this article, it is stated that ASN are prohibited from conducting activities that lead to bias towards certain Election Participants before, during, and after the campaign period. The activities include meetings, invitations, appeals, shoutouts or giving goods to the ASN in the work unit environment, family members, and the community. The activities referred to in this clause are the objects of this monitoring.

In addition, this monitoring also refers to Government Regulation (PP) Number 42 of 2004 concerning Development of Civil Service Esprit de Corps and Code of Ethics. Article 7 of the regulation stated, “In the implementation of workplace tasks and everyday life, every Civil Servant shall act and be guided by the ethics in the life of the state, in the administration of governance, in conducting organization, in the society, as well as towards themselves and fellow Civil Servants as regulated in this Government Regulation.” In Article 11 letter c, it is stated that the form of ethics towards themselves is to avoid conflicts of personal, group or categorical interests. Circular of the Minister of State Apparatus and Bureaucratic Reform No. B/71/M.SM.00.00/2017 dated December 27, 2017, addressed to the leadership of the central and regional government agencies then outlines various examples of the type of violation of the Article 11 letter c of the Government Regulation.

Based on the various laws and regulations above, the scope of monitoring in this report is limited to several activities as described in the following table.
Table 1.1
Scope of ASN Neutrality Monitoring

<table>
<thead>
<tr>
<th>NO</th>
<th>TYPE OF VIOLATION</th>
<th>EXAMPLES OF VIOLATION</th>
<th>EVIDENCE</th>
</tr>
</thead>
</table>
| 1  | ASN installs a Campaign Prop (APK) that promotes himself/herself or others as participants in the General Election (presidential candidates, legislative candidates, DPD, DPR RI, Provincial DPRD, City/Regency DPRD, or Political Parties). | 1. ASN installs a Campaign Prop at home or in a public place that promotes himself/herself, a candidate and/or a political party participating in the Elections.  
2. ASN expresses support for election participants by word of mouth/written in official government events, workshops, ceremonies (which take place in events involving the public). | 1. Photo/Video  
2. Clipping/news link |
| 2  | ASN declares himself/herself as a supporter of election participants. | 1. A formal government program by declaring support for Election Participants.  
2. Influencing, forcing subordinates or other employees to vote for one of the participants in the election. | 1. Photo/Video  
2. Clipping/news link  
3. Copy of declaration document |
| 3  | ASN attends the declaration of support for candidates participating in the General Election and participants in the General Election with or without wearing the attributes of prospective candidates/attributes of political parties. | ASN attends the declaration event and provides support to participants in the General Election with or without wearing the attributes of participants. | 1. Photo/Video  
2. Clipping/news link  
3. Copy of declaration document |
| 4  | ASN uploads, responds (such as giving likes, comments, and similar) or disseminates pictures/photos of election participants through online and social media. | 1. ASN openly states their preference of a candidate or party by uploading photos on social media. ASN likes uploads or photos of Election Contestants  
2. ASN provides responses to public uploads on the social media, with responses that support/ oppose Election Contestants.  
3. ASN takes a picture with election participants and uploads it by following gestures as a form of support. | 1. Photo/Video  
2. Clipping/news link  
3. Screen shot |
| 5  | ASN becomes speaker/guest speaker/participant in a meeting held by election participants | 1. ASN attends an event as a guest speaker/speaker in an activity/meeting of an election participant.  
2. ASN attends activities as a participant at a campaign events, workshop, outreach, and activities of the Election Participant. | 1. Photo/Video  
2. Clipping/news link  
3. Copy of invitation/presentation material/minutes |
### Table 1.1

<table>
<thead>
<tr>
<th>NO</th>
<th>TYPE OF VIOLATION</th>
<th>EXAMPLES OF VIOLATION</th>
<th>EVIDENCE</th>
</tr>
</thead>
</table>
| 6  | ASN makes decisions and/or actions that benefit or harm one of the candidate pairs. | 1. ASN promotes or depromotes, conducts black campaigns against an election participant.  
2. ASN spreads hoaxes detrimental to an election participant.  
3. ASN utilizes programs and activities within their authority that can benefit an election participant. | 1. Photo/Video  
2. Clipping/news link  
3. Copy of decree/decision |
| 7  | ASN is involved in the campaign to support election participants and conduct activities that lead to bias. | ASN is actively involved in the election contestants’ campaign activities, giving speeches, hand gestures, testimonies of the advantages or disadvantages of election participants. | 1. Photo/Video  
2. Clipping/news link |
| 8  | ASN provides facilities and/or financial support related to campaign activities to election participants. | 1. Providing mobility facilities such as official or private vehicles.  
2. Providing office building facilities, official houses, official residences.  
3. Providing office facilities and other facilities funded by the State Budget/Regional Budget. | 1. Photo/Video  
2. Clipping/news link  
3. Copy of receipts/similar |
| 9  | ASN invites or mobilizes others to support election participants | 1. ASN invites others (staff, students, university students, teachers, lecturers) to support one of the election participants.  
2. ASN facilitates finances others to mobilize support for election participants. | 1. Photo/Video  
2. Clipping/news link |
1.3. Monitoring Method

The monitoring is done using two approaches, namely direct and indirect monitoring. Direct monitoring is monitoring of ASN behavior in their daily activities, including monitoring ASN behavior in open campaigns organized by election participants. Whereas, indirect monitoring is monitoring carried out through the media, both social media and mass media coverage.

The methods of monitoring and the steps taken by the monitors can be seen in the following table.

<table>
<thead>
<tr>
<th>NO</th>
<th>MONITORING METHOD</th>
<th>MONITORING STEPS</th>
</tr>
</thead>
</table>
| 1  | Direct Monitoring | 1. Finding out information about activity/campaign schedule  
2. Go to the location and observe the activity/campaign.  
3. Identifying the presence of ASN coming to the activity/campaign (both in uniform or not).  
4. Identify whether the ASN comes by using a private vehicle or official vehicle.  
5. Documenting in the form of photos/videos. |
| 2  | Indirect Monitoring | 1. The monitors have social media accounts (WhatsApp, Facebook, Instagram, Twitter, YouTube, etc.).  
2. Make requests to join groups, request friendship, and follow ASN social media.  
3. Observe and trace the owner of a social media account that uploads material related to election campaigns or material that leads to bias.  
4. Ensure that the account owner who uploads campaign material or bias is an ASN, by looking at the profile and photos that have been uploaded.  
5. Take screenshots of uploads that lead to violations of the neutrality of the ASN. |
Introduction

Monitoring Result of Violations of Political Neutrality of ASN in 2019 General Election

The monitoring findings are then reported through the complaint channel www.lapor.kasn.go.id and www.lapor.go.id.

Monitoring was carried out by PATTIRO together with representatives of CSOs in four cities, totaling 80 monitors. Before conducting the monitoring, PATTIRO together with KASN provided training to the monitors. The material presented in the training are basic norms, ASN code of ethics and code of conduct, ASN neutrality as part of the ASN code of ethics and code of conduct, the importance of ASN neutrality in the implementation of elections, and how to conduct monitoring based on monitoring instruments.

In general, this monitoring process was carried out in two periods. The first period was conducted from the beginning of March 2019 until the day of the voting on April 17, 2019, and the second period is conducted after the vote until the end of May 2019.

### Tabel 1.2

<table>
<thead>
<tr>
<th>NO</th>
<th>MONITORING METHOD</th>
<th>MONITORING STEPS</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>b. Monitoring through the Mass Media</td>
<td>1. Search for information through print and/or online media</td>
</tr>
<tr>
<td></td>
<td></td>
<td>2. Browse news related to election campaigns.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3. Identify in the news related to the election whether there is an ASN that is</td>
</tr>
<tr>
<td></td>
<td></td>
<td>indicated as violating.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>4. Ensure that indications of violations are committed by ASN.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>5. Document the news that contains violations of ASN neutrality (clippings, news</td>
</tr>
<tr>
<td></td>
<td></td>
<td>links, or screenshots).</td>
</tr>
</tbody>
</table>

Continue
2.1. Monitoring Process

As discussed in Chapter I, that before monitoring, the monitors receive training in order to understand the concept of neutrality in the ASN and understand the monitoring instruments.

After that, monitors directly make monitoring, both directly and indirectly. Direct monitoring is carried out by going directly to campaign activities to ascertain whether there are ASNs actively participating in campaigning for certain candidates. In addition, direct monitoring is also carried out by observing the behavior of the ASNs around the place of residence of the monitor, to ascertain whether in their daily lives they make an effort to invite, persuade, or other activities that are campaigning in nature. If an ASN is found to be in violation, the monitor then documents it through photographs or video as evidence.

Whereas in indirect monitoring carried out through the social media, monitors identify ASNs within a conversation group such as WhatsApp (WA). The monitor then tracks the conversation topic that was raised by ASN into the group. The monitor then documents the conversation through screenshots of the ASN conversation containing the campaign. For monitoring conducted on social media such as Facebook, Twitter, and Instagram, monitors follow ASN posts. It is not difficult to find ASN on social media, because in general, monitors also make friends with ASN on social media. In other words, monitors have previously recognized the target ASN. The monitors then documented screenshots of ASN posts that were campaigning to be reported as violations.

For monitoring through the mass media, monitors conduct monitoring by reading news about the Election and document the materials reported (storing news links for online media, and clippings for print media) on news about violations of neutrality of ASN. The results of all monitoring are then posted to the www.lapor.kASN.go.id complaint channel as a complaint to KASN, and to the www.lapor.go.id complaint channel as a complaint related to public services, with the hope that it will be forwarded to the relevant agencies where the relevant ASN works. The last mentioned complaints channel is a complaints platform managed by the KemenPAN-RB as part of the National Public Service Complaints Management System (SP4N). Every
report posted on either platform is marked with the #NetralASN hashtag.

To facilitate tracing the reports that had been submitted, PATTIRO coordinates with the manager or admin of www.lapor.kasn.go.id. This coordination is to ensure that reports that have been submitted are well received through the platform system. However, PATTIRO did not coordinate with the admin of www.lapor.go.id to check the follow-up, because from the beginning, this monitoring process, was more focused on complaints about the neutrality of ASN to the KASN.

In response to reports submitted by monitors, KASN then followed up with verification. KASN will follow up on reports supported by valid data that can be verified. KASN then conduct verification to the institution where the ASN worked, and if strong evidence is found that a violation had occurred, then KASN will make a recommendation to be submitted to the PPK for the determination of sanctions. The findings of the monitoring results and KASN follow-up steps will be presented in the next section.

One of the dynamics that occurs in the monitoring process is the leakage of identity of the monitor to the reported ASN. One of monitor in Semarang reported that an ASN had committed a violation that could potentially contain elements of criminal sanctions to the Central Java Province Bawaslu. The reported ASN was from Kendal District, so the Central Java Bawaslu then delegated the case to Kendal Regency Bawaslu. However, the Kendal Regency Bawaslu informed the report to the ASN, and provided information about the monitor’s identity (information). Upon receiving the leak, the ASN directly confronted the monitor. The monitorobser then felt intimidated by the confrontation and felt compelled to withdraw his report.

Related to the leakage of monitor’s identity, this was a concern for monitors, especially monitors who are friends with, or otherwise related to the reported ASN. They were worried to be found out by the reported ASN, which could jeopardize their relationship. This has caused monitors to be reluctant to report their findings. They only wanted to report after learning that the complaints system in KASN and SP4N does not publish monitor’s identity. Such information is only known by the admin.

In addition to the leak of monitor’s identity, another issue that emerged along with the monitoring process was a technical obstacle when trying to enter the KASN complaint channel application. Monitors often failed when they wanted to register or log in. In addition, monitors also often found that their reports were not uploaded to the system, making it difficult to monitor their follow up. This obstacle was then overcome by reporting it to the KASN complaint channel admin. From the report, the admin then followed up by making improvements.
2.2. Findings of the Monitoring

During the monitoring period, the monitoring team managed to find 89 cases of violations committed by ASN related to neutrality in the 2019 elections. The largest number of cases were found on social media, including Facebook, Instagram and WhatsApp, namely 66 cases. The most frequent forms of violations were uploading pictures of participants in the General Election accompanied by supportive captions, giving comments, and giving likes on posts of other people who support the election participants.

Other than through the social media, cases of violation of ASN neutrality were also found directly. The forms of violations that occur are attending declarations of support for election participants (8 cases), engaging in campaigns and activities that show bias/support (8 cases), mobilizing others to support election participants (4 cases), becoming guest speakers at events held by election participants (2 cases), and installing campaign props (1 case). The following graph shows the types of violation committed by ASN.

**Graphic 2.1**
Types of Violations of ASN Neutrality

- Posting support contents in social media: 4 cases
- Involved in campaign: 8 cases
- Attending declaration of support for election candidates: 2 cases
- Mobilizing support: 66 cases
- Participating in activity of election candidates: 8 cases
- Installing campaign properties: 1 case
The large number of ASNs using social media to provide support to election participants is not surprising. This is because social media has become a medium commonly used by the public to express their feelings. In Indonesia, according to the latest research released by We Are Social and Hootsuite, there are 150 million social media users, or around 60 percent of the total population. This number is 20 million higher compared to the research held in 2018.

Therefore, it is appropriate for the General Election Commission (KPU) to regulate campaigns through the social media. The regulation of campaigns through the social media is contained in KPU Regulation (PKPU) Number 23 of 2018 concerning General Election Campaigns. In Article 23 paragraph 1, it is stated that social media is one method that can be used to conduct campaigns. Article 35 describes in more detail the campaign method by using social media. However, the campaign referred to in this regulation is one carried out by Election Participants or parties appointed by Election Participants registered in KPU. This KPU regulation does not regulate the use of social media for outside parties, thus, non-election participant social media users who conduct campaign to support their choice are not bound by the PKPU. Naturally, many social media users feel free to conduct campaigns, including the ASN.

However, even if ASNs feel to have such freedom, it does not mean that it is actually allowed. For ASNs, campaigning for election participants through social media is a violation. This is stated explicitly in the Circular of the Minister of State Apparatus and Bureaucratic Reform No. B/71/M. SM.00.00/2017 dated December 27, 2017. One of the clauses of the circular states that for the civil servants, campaigning for electoral participants in the form of uploading photos, vision and mission as well as other uploads related to the form of support, is categorized as a violation of ethics as regulated in Government Regulation Number 42 of 2004 concerning Development of Civil Service Esprit de Corps and Code of Ethics, Article 11 letter c. These actions are included as ethical violations, because the ASN is then seen as being unable to avoid conflicts of personal, group or categorical interests.

However, from the results of monitoring, many violations of ASN neutrality were committed in the real world. From the graph above it appears that ASNs have been involved in open campaigns, attending candidate declarations, mobilizing potential voters, and even helping installing/distributing campaign props. Various forms of violations of ASN neutrality in the real world are described in the following table.

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1 https://teknos.kompas.com/read/2019/02/05/1080097/facebook-jadi-medios-paling-digemari-di-indonesia
Based on their background, the group of ASN which had the most violations was regional government employees, which amounted to 31 persons. These included staff, head of division, even head of district office. Holding second place are lecturers/deans/chancellors, as many as 21 persons, followed by 19 teachers/principals. The rest were Ministry and Agency employees, hospital staff, district head/staff, subdistrict head/staff, and also researchers. The distribution of the total number of violations of ASN based on their position can be seen in Graph 2.2.
Noting the position of the ASNs conducting violations as shown above, there is the potential for mobilization of support for certain election participants. The position of Head of District Office, for example, even though only uploading his support on social media, without making a direct encouragement, has the possibility that his political preference will be followed by his staff. This indication appeared in a case of violation in Banten Province. A head of district office at Cilegon City Government supported one of the candidates for the Regional Representative Council (DPD). The head of district office felt moved to support the candidate, because the candidate concerned was the son of the governor. No doubt, his status containing the campaign was then responded in the form of support by his staff. In fact, many heads of district office and their staff later formed groups to campaign for the DPD candidate on WhatsApp.

In addition to structural positions such as the head of district office as mentioned above, functional positions such as teachers and lecturers also have very strategic positions. In the finding above, the number of violations conducted by ASNs who held the positions of teacher and lecturer combined was quite large, namely 40. Of these, in addition to uploading campaigns on social media, many of them showed their political preferences in front of the class when teaching, some even openly directed students to vote for certain candidates.

In addition to the head of district office and teaching staff, other regional-based positions such as district and subdistrict heads also have the potential to mobilize the masses, especially the masses in their working areas. Thus, an ASN who violates neutrality, will have a relatively large impact on the influence of the masses, which in turn will lead to mass mobilization to support the candidates for the Election preferred by the relevant ASNs.
Although this monitoring was carried out by CSO networks in four cities, the locus of monitoring was carried out in all regions in Indonesia. Of all the findings produced, the majority of violations were committed by ASN in Central Java, totaling 25 persons, followed by East Java with 23 persons. ASN neutrality violations were also found outside Java such as in Aceh, Tana Toraja, Bukittinggi, and Mimika. The distribution of the number of ASN violations based on the locus can be seen in the following Graph 2.3.

Noting the above findings, it appears that the phenomenon of ASN violations of neutrality in election did not only occur in a particular region. Although the number of ASNs that have committed violations is relatively small, this finding shows the potential for violations in other regions. It is also possible, if traced further, that violations of ASN neutrality occurred in all regions of Indonesia.

**Graph 2.3**

Distribution of ASN Neutrality Violations by Location

![Bar chart showing the distribution of ASN neutrality violations by location.](source: Monitoring Data (processed))
ANALYSIS OF FINDINGS
The field findings presented in the previous chapter showed that there are around 80 cases of ASN non-neutrality. This number may be only a fraction of the actual number of cases of non-neutrality among ASNs.

The cases raised actually show the need for enforcement of the ASN code of ethics for them to be able to behave and act neutrally. This non-neutrality of ASN has an impact on public services, which is one of the main functions of ASN. Besides that, the non-neutrality of ASN will also have an impact on the function of ASN as the nation’s adhesive.

3.1. ASN’s Neutrality in its Position as Public Servants and The Nation’s Adhesive

The bureaucracy plays a very important role in the system of modern society and government. The bureaucracy determines the quality of the implementation of public policies that have been set. In addition, it is also a manifestation of the state in the delivery of services to the community. The main drivers of bureaucracy are government employees, civil servants (PNS) or the ASN. Aside from being policy implementers and public servants, ASN in Indonesia also has other functions, namely as the ‘adhesive and unifier’ of the nation, as stated in Article 10 of Law Number 5 of 2014 concerning ASN, that there are three functions of ASN namely as implementers of public policy, providers of public services and adhesive and unifier of the nation.

In the context of being public servants, the neutrality of ASN is very important to ensure that bureaucrats will not change the provision of public services, regardless of whoever controls the government (Thoha, 2003). In other words, the ASN shall continue to carry out their duties and functions to provide professional and quality public services, despite a change in government leadership.

According to the Indonesian Comprehensive Dictionary, “neutral” means impartial, neutral or non-participating or helping one party. Bureaucratic neutrality becomes especially important when reflecting on the previous situation, namely during the New Order Era, which showed that civil servants and bureaucracy became part of a certain political group, even becoming a political machine in charge of gathering votes. The New Order regime was one that prominently focused on the powers of the centralized state. The state appeared as the only force that could not be matched by any community group. The State has succeeded in controlling the
people with various policies and the processes of forming a political order. One form of political control is done by making the bureaucracy as a support of government power. The bureaucracy was used as a political machine in the elections process. The bureaucratic organization, namely the Indonesian Civil Servants Corps (KORPRI), was one of the lines in Golkar, namely B (means Bureaucracy), which was useful for strengthening civil servant support in every election. All civil servants were required to channel their political aspirations through Golkar and enforce a policy of monoloyalty. Additionally, bureaucrats were recruited into political managers and made part of the Golkar faction in the parliament.

Bureaucratic neutrality actually referred to the concept of bureaucracy put forward by the eminent sociologist Max Weber, who stated that bureaucracy formed has to be independent from political forces (neutral). Bureaucratic neutrality is focused on carrying out the interests of the state and people as a whole. Thus, regardless of who has the reins on politics, the bureaucracy still provides the best service to the people.

The concept of ASN neutrality that is regulated in Indonesian laws and regulations does not result in the loss of ASN’s political right to run as candidates or to vote. Neutrality is more likely to limit the involvement of ASN in socializing or campaigning for certain candidates or politics. However, when examined further, the limitation of neutrality of ASN as such creates a paradox. On the one hand, ASN is kept neutral in relatively dynamic politics, while at the same time ASN was also given the right to vote. Both of these are potentially contradictory and give rise to the vulnerability of ASN to be neutral. Because when the government gives ASN the right to vote, it means giving way to ASN to be non-neutral. If ASN exercises its right to vote, it is actually supporting one candidate and ignoring another candidate, which means he will become a partisan bureaucrat (Tamma, 2016). This has allegedly triggered various violations of the code of ethics, especially related to the neutrality of ASN, which led to a proposal from KPPOD (2018) for the Government to revoke ASN’s right to vote to ensure that ASN can be neutral in the electoral process, especially the regional head election.

ASN neutrality is also an effort to avoid abuse of power of the bureaucracy. According to Kacung Marijan (2010), there are things that are vulnerable when bureaucracy is involved in politics, especially in relation to public services, namely the fear of misuse of financial resources and public facilities controlled by the bureaucracy. As a public institution, the bureaucracy has various facilities, including financial resources, as a means to provide public services. When bureaucrats are involved in politics, it is feared that there is an abuse of their authority. For example, bureaucracy can allocate and distribute existing resources in bureaucracy to political parties as political affiliates. In fact, as an institution that functions to provide public services, the bureaucracy should provide services to ‘all people’ and not to certain ‘groups of people’.

Another reason for the importance of neutrality in ASN is as a precondition for increasing professionalism in public services, so that ASN can provide services that are quick, transparent, fair and impartial to one party. Non-neutrality will be an inhibiting factor for fair and quality services, because ASN will try to put its political groups or affiliations first in providing services, even though the public that ASN has to serve is the public in general, without distinguishing the origin of groups or political parties.
The quality of public services in Indonesia itself is such that the public in general still complains about it. Reports submitted to the Indonesian Ombudsman (2018) show that there were still many allegations of maladministration of public services. The three most frequent forms are protracted delays with 606 reports (37.02%), procedure deviations with 340 reports (20.77%) and not providing services with 314 reports (19.18%).

Referring to the Indonesian Ombudsman report, the existence of reports on maladministration shows that good public service has not yet been realized, namely services that can provide optimal and continuous satisfaction for customers, who meet the requirements of: a) existence of service standards; b) aim of satisfying customers; and c) service according to standards. Service standards are benchmarks used as guidelines for service delivery and reference for assessing service quality as obligations and promises of providers to the public in the context of quality, rapid, easy, affordable, and measurable services. Service standards are also a measure for consumers of the rights they obtain.

ASN’s neutrality in public services is also reflected in the ideal conditions that should be created (KASN, 2019), namely:

1) Not cause protracted delays in public services because of differences/similarities in ethnicity, religion, race and customs including political views or other reasons;

2) Not discriminate in providing public services because of differences/similarities in ethnicity, religion, race and customs including political views or other reasons;

3) Not abuse authority in providing public services due to differences/similarities in ethnicity, religion, race and customs including political views or other reasons;

4) Not asking for compensation when providing public services;

5) Not deviate from procedures when providing services;

6) Acting properly in providing public services regardless of differences/similarities in ethnicity, religion, race and customs including political views or other reasons;

7) Not taking sides in providing public services because of differences/similarities in ethnicity, religion, race and customs including political views or other reasons;

8) Not have a conflict of interest in providing public services due to differences/similarities in ethnicity, religion, race and customs including political views or other reasons;

9) Not discriminate in providing public services because of differences/similarities in ethnicity, religion, race and customs including political views or other reasons;
10) Not make it difficult to provide public services because of differences/similarities in ethnicity, religion, race and customs including political views or other reasons;

11) Providing services on behalf of institution rather than individual;

12) Not requesting/receiving fees other than the applicable official fees;

13) Not misuse information, position, and or authority they have;

14) Not divulge information or documents that must be kept confidential according to statutory regulations;

15) Not misuse public service facilities and infrastructure.

Aside from being a provider of public service, ASN also serves as an adhesive and unifier of the nation. This function starts when the person is appointed as an ASN. As stated in Article 66 paragraph (1) and (2) of the ASN Law regarding oaths and promises when appointed as a civil servant, they promise to always be fully loyal and obedient to Pancasila, the 1945 Constitution, the state and the government. Civil servants also always uphold the dignity of civil servants and always prioritize the interests of the State rather than the interests of themselves, individuals and categories. With this oath, a civil servant is bound to be loyal and obedient to the basic pillars of the State of Indonesia namely Pancasila and the 1945 Constitution, as well as to a legitimate government. A civil servant may not have thoughts, views and take actions that are contrary to the Pancasila and the 1945 Constitution. For a civil servant, Pancasila, the 1945 Constitution and the Unitary Republic of Indonesia are final and undebatable. They are ready to sacrifice their body and soul to maintain the integrity of the Unitary Republic of Indonesia. In summary, civil servants must strive to prevent disintegration, that is, the splitting of a nation into separate parts. In this context, a civil servant who is part of the ASN carries out their function as the adhesive and unifier of the nation.

The role of ASN as the adhesive and unifier of the nation is implicitly related to the principle in the administration and management policy of ASN, namely the principles of unity and integrity. This means, a civil servant or ASN in carrying out their duties always prioritizes national unity and integrity. Group, individual and categorical interests should be sidelined for the greater interest of the state and nation. Non-neutrality of ASN has implications for differences in treatment (discrimination) for people of different origins, groups and political parties, which will result in jealousy and social unrest. If this is allowed and continues to grow, it will trigger conflicts between community groups and potentially develop into national disintegration, especially from groups that feel discriminated against.

Efforts to prevent the occurrence of conflict and disintegration of this nation can be done by ASN in the form of:

a. Acting neutral and fair. Neutral in the sense that they do not favor one of the groups. Fair in the sense that civil servants in carrying out their duties must not discriminate and must be objective, honest and transparent. By being neutral and fair in carrying out their duties, civil servants will be able to create conditions that are safe, peaceful, and harmonious in their work environment and society.

b. In elections, an ASN active in a political party, or nominating themselves as a member of the legislature (DPR, DPRD and DPD), or as regional head, must step down
or temporarily cease from their status as ASN. This is required so that they do not abuse their authority for the benefit of themselves and their political parties. If civil servants were involved in the interests of practical politics, it will be difficult to be neutral and objective in carrying out their duties. This situation will lead to distrust of the public towards civil servants and the institutions. Meanwhile, ASN, which has the right to vote, also shall not show their preference towards election participants, either through speech, actions and certain symbols. ASN right to vote is sufficiently manifested in the form of giving votes for election participants at the time of voting.

3.2. The Function of KASN as the Supervisor of ASN Basic Norms, Code of Ethics and Code of Conduct

As stated above, the neutrality of ASN is very important. ASN’s partisanship will disrupt its function as the spearhead of public services and the adhesive and unifier of the nation. Such is the importance that neutrality becomes part of the basic values/norms, code of ethics and code of conduct that must be upheld by ASN. This is stated in the ASN Law, namely that one of the basic values/norms that must be carried out by ASN is carrying out their duties professionally and impartially (Article 4 letter d). The ASN Law also states that one of the code of ethics and code of conduct is to prevent conflicts of interest in carrying out their duties (Article 5 paragraph 2 letter h).

KASN, as an institution that carries out the function of overseeing basic norms/values, code of ethics and code of conduct, has the specific task of maintaining the neutrality of ASN. In carrying out this task, KASN has the authority to request information from both the public and ASN to obtain reports on violations of basic norms, code of ethics and code of conduct. Based on the report, KASN conducts a verification to prove whether a violation occurred or not. KASN is also authorized to request documents or clarification from government agencies to support the verification process. After finding evidence of violations, KASN then submits the results of the examination to PPK for further action. The follow up is a written statement regarding violation of the code of ethics in writing as regulated in PP No. 42 of 2004 concerning the Development of Civil Service Esprit de Corps and Code of Ethics. Thus, although the oversight function is held by KASN, the authority to determine sanctions for violating ASN is in the hands of PPK. The ASN Law does not further regulate KASN authority if reports of violations of the code of ethics and code of conduct are not followed up by the PPK. Indeed, the ASN Law stipulates that KASN can submit recommendations to the President to impose sanctions on PPK for not following up on the KASN supervision report, but is limited to surveillance reports on violations of the Merit System, not violations of basic norms, code of ethics and code of conduct.

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3 Article 33 paragraph 1 reads: “Based on the results of supervision that is not followed up as referred to in Article 32 paragraph (3), KASN recommends to the President to impose sanctions on the PPK and the Authorized Official who violate the principles of the Merit System and the provisions of the legislation.” What is intended by the contents of Article 32 paragraph (3) is the result of KASN’s supervision of the appointment of the High Leadership Position and the fundamental values, code of ethics and code of conduct of ASN.
A quasi-state institution that has a similar function to KASN is the Judicial Commission (KY). Based on Law Number 22 of 2004 (as amended by Law Number 18 of 2011) concerning the Judicial Commission (KY Law), it is stated that one of the authorities of KY is to maintain and enforce the implementation of a code of ethics and/or code of conduct for judges. As with KASN, in carrying out its authority, KY can also receive reports from the public about violations of the code of ethics and code of conduct, then conduct an investigation to prove whether the violation occurred. Reported acts that have been proven as violations are then formulated in the form of recommendations to the leadership of the Supreme Court (MA) to impose sanctions on judges who commit violations. This means that KASN and KY both issue recommendations to the leaders of the object of supervision, and handed over the full enforcement of sanctions to the leaders. However, there are differences in the mechanism of enforcement of sanctions. In the event that the KASN recommendation is not implemented by the PPK, KASN then reports it to the President and proposes to impose sanctions on PPK. In this case it is different from the KY recommendation, which only stops at the MA leadership level. This can be understood because ASN are subordinate to the President, who has the highest authority in the executive branch of government, while judges are subordinate to the leadership of the Supreme Court, as the party that has the highest authority in the judicial branch. Thus there are no more parties above the leadership of the Supreme Court.

Based on the description above that the determination of sanctions for violations by judges is final in the leadership of the Supreme Court. Because of its final nature, it is reasonable if the KY Law also regulates the mechanism of verification or joint inspection between the MA and KY when a report of violation has yet to be proven. This mechanism is implemented to apply the precautionary principle in enforcing sanctions. Such a mechanism is not regulated in the ASN Law. In the ASN Law there is no regulation regarding the verification mechanism or joint discussion between KASN and PPK, and between KASN and the President.

Another difference between KASN and KY is related to the establishment of the code of ethics and code of conduct. While KY has the authority to determine the code of ethics and behavior of judges, KASN does not have the authority to establish the code of ethics conduct and code of conduct of ASN. The ASN code of ethics as a profession is determined by PPK in their respective institutions. This is regulated in PP No. 42 of 2004 concerning the Development of Civil Service Esprit de Corps and Code of Ethics. In Article 13 paragraph 1, it is stated that PPK can stipulate the code of ethics of the institution. From this arrangement it is possible for the emergence of many versions of the ASN
code of ethics, unlike the single code of ethics and code of conduct of judges established by KY. Determination of a code of ethics centrally by KY may be psychologically affecting the compliance of judges with KY as the supervisors. Conversely, because there is no stipulation of the ASN code of ethics by KASN, this psychologically influences ASN not to be too compliant with KASN.

A comparison between KASN and KY supervision mechanisms can be seen in the following matrix:

Table 3.1
Comparison of Monitoring Function and Mechanism of KASN and KY

<table>
<thead>
<tr>
<th>Legal basis</th>
<th>KASN</th>
<th>KY</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Law Number 5 of 2014</td>
<td>• 1945 Constitution Article 24B para1</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Law Number 22 of 2004 juncto Law Number 18 of 2011</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Function/Authority</th>
<th>KASN</th>
<th>KY</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Oversees the implementation of ASN basic norms, code of ethics and code of conduct, as well as the application of the Merit System in ASN policies and management at Government Agencies</td>
<td>• Propose the appointment of Supreme Court justices and ad hoc judges in the Supreme Court to the Parliament for approval.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Maintain and uphold the honor, dignity, and behavior of judges.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Establish a Code of Ethics and/or Code of Conduct for Judges together with the Supreme Court.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Maintain and enforce the implementation of the Code of Ethics and/or the Code of Conduct for Judges</td>
</tr>
<tr>
<td></td>
<td>KASN</td>
<td>KY</td>
</tr>
<tr>
<td>------------------------</td>
<td>----------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------</td>
</tr>
</tbody>
</table>
| **Code of Ethics and Code of Conduct Oversight Mechanisms** | • Receive reports of violations of ASN basic norms and code of ethics and code of conduct.  
  • Conduct data and information searches and examine documents related to violations of basic norms and code of ethics and code of conduct.  
  • Request clarification and/or documents required from Government Agencies for examination of reports of violations.  
  • Make decisions regarding the existence violations of the code of ethics and code of conduct. | • Receive community reports and/or information about alleged violations of the Code of Ethics and/or the Code of Conduct for Judges.  
  • Verify the report; examine the alleged violation; make summons and request information from the judge suspected of committing the violation; and call and ask witness statements.  
  • Request information or data from the Judiciary and/or Judge. If the request is not fulfilled within 14 days from the date of the KY request, KY will request information or data through the Supreme Court Leader. If this is not met, the judge and/or judicial body will be subject to sanctions in accordance with the provisions of the legislation.  
  • Sum up the results of the verification. |
| **Enforcement of Sanctions** | • Reports on the results of supervision are submitted to the Staff Supervisory Official (PPK) and the Authorized Official to be followed up with a written determination of moral sanctions.  
  • KASN recommends to the President to impose sanctions on PPK or Authorized Officials if the report is not followed up. (Interpretation of article 33 paragraph 1 of the ASN Law, recommendations to the President only relating to violations of the principles of the Merit System, not violations of the code of ethics). | • KY proposes to the Supreme Court to impose sanctions on judges who have been proven guilty of violations. The Supreme Court imposes sanctions for judges no later than 60 days from the date the proposal is received.  
  • In the event of a difference of opinion between KY and MA related to the proposed imposition of sanctions, a joint examination is conducted between KY and MA of the judge concerned. If there is no agreement between KY and MA, then the KY proposal applies automatically and must be implemented by the MA. |

Sources: Law No 5 of 2014 and Law No. 22 of 2004 juncto Law No. 18 of 2011 (processed)
3.3 Settlement of ASN Neutrality Cases by KASN

Under the ASN Law, besides being neutral, ASN is also required to work professionally. This means, ASN should not be easily influenced by other parties. This attitude must be maintained both in the performance of their duties and in their daily behaviour. However, due to the tight bureaucratic structure, ASN usually does not have the power to refuse orders from its superiors, including orders to facilitate the election of candidates for election. At this point, the principle of neutrality and professionalism has the potential to separate from the ASN. In practice, the ASN is in a position that is dilemmatic and affected by political interests. ASN is appointed, placed, transferred and dismissed by the PPK who is a political official. This condition makes ASN’s career often depending on the PPK’s political interests.

Meanwhile, ASN must also remain neutral to maintain their professionalism in carrying out their duties both as a public servant, policy implementer and holder of power and authority in managing the budget and resources within the bureaucracy. This makes ASN vulnerable to being used by political officials to be able to maintain/obtain authority and power.

This dilemmatic position of the ASN has resulted in a relatively high number of violations of the principle of neutrality, which is reflected in the number of complaints that have been reported to KASN. The following are data on complaints for violations of ASN neutrality during the regional elections.

**Graphic 3.1**
Number of Complaints about Violation of ASN Neutrality and Simultaneous Regional Elections

<table>
<thead>
<tr>
<th>Year</th>
<th>Area holding regional elections</th>
<th>Number of complaints</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015</td>
<td>269</td>
<td>29</td>
</tr>
<tr>
<td>2016</td>
<td>0</td>
<td>55</td>
</tr>
<tr>
<td>2017</td>
<td>101</td>
<td>52</td>
</tr>
<tr>
<td>2018</td>
<td>171</td>
<td>507</td>
</tr>
</tbody>
</table>

Source: Working Group for System Analysis and Development, data as of December 2018
From the graph above, it appears that reports of complaints of violations of ASN neutrality in the past four years have increased. The highest number of complaints occurred in 2018, totaling 507 complaints. Meanwhile, when observed based on the area where the violation occurred, the frequency of violations of ASN neutrality in 2018 can be seen in the following table.

### Table 3.2
Number of ASN Committing Violations by Province

<table>
<thead>
<tr>
<th>NO</th>
<th>PROVINCE</th>
<th>FREQUENCY</th>
<th>PERCENTAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>South Sulawesi</td>
<td>301</td>
<td>30.56</td>
</tr>
<tr>
<td>2</td>
<td>Southwest Sulawesi</td>
<td>231</td>
<td>23.45</td>
</tr>
<tr>
<td>3</td>
<td>West Jawa</td>
<td>54</td>
<td>5.48</td>
</tr>
<tr>
<td>4</td>
<td>North Maluku</td>
<td>41</td>
<td>4.16</td>
</tr>
<tr>
<td>5</td>
<td>Riau</td>
<td>40</td>
<td>4.06</td>
</tr>
<tr>
<td>6</td>
<td>Lampung</td>
<td>40</td>
<td>4.06</td>
</tr>
<tr>
<td>7</td>
<td>Central Jawa</td>
<td>30</td>
<td>3.05</td>
</tr>
<tr>
<td>8</td>
<td>West Sulawesi</td>
<td>29</td>
<td>2.94</td>
</tr>
<tr>
<td>9</td>
<td>Jambi</td>
<td>25</td>
<td>2.54</td>
</tr>
<tr>
<td>10</td>
<td>South Sumatera</td>
<td>25</td>
<td>2.54</td>
</tr>
<tr>
<td>11</td>
<td>South Kalimantan</td>
<td>21</td>
<td>2.13</td>
</tr>
<tr>
<td>12</td>
<td>East Nusa Tenggara</td>
<td>20</td>
<td>2.03</td>
</tr>
<tr>
<td>13</td>
<td>North Sumatera</td>
<td>19</td>
<td>1.93</td>
</tr>
<tr>
<td>14</td>
<td>North Sulawesi</td>
<td>17</td>
<td>1.73</td>
</tr>
<tr>
<td>15</td>
<td>West Sumatera</td>
<td>16</td>
<td>1.62</td>
</tr>
<tr>
<td>16</td>
<td>West Nusa Tenggara</td>
<td>13</td>
<td>1.32</td>
</tr>
<tr>
<td>17</td>
<td>East Kalimantan</td>
<td>11</td>
<td>1.12</td>
</tr>
<tr>
<td>18</td>
<td>East Jawa</td>
<td>9</td>
<td>0.91</td>
</tr>
<tr>
<td>19</td>
<td>Central Kalimantan</td>
<td>8</td>
<td>0.81</td>
</tr>
<tr>
<td>20</td>
<td>Gorontalo</td>
<td>7</td>
<td>0.71</td>
</tr>
<tr>
<td>21</td>
<td>West Kalimantan</td>
<td>7</td>
<td>0.71</td>
</tr>
<tr>
<td>22</td>
<td>Maluku</td>
<td>5</td>
<td>0.51</td>
</tr>
<tr>
<td>23</td>
<td>Bali</td>
<td>4</td>
<td>0.41</td>
</tr>
<tr>
<td>24</td>
<td>Papua</td>
<td>3</td>
<td>0.30</td>
</tr>
<tr>
<td>25</td>
<td>Banten</td>
<td>2</td>
<td>0.20</td>
</tr>
<tr>
<td>26</td>
<td>Central Sulawesi</td>
<td>2</td>
<td>0.20</td>
</tr>
<tr>
<td>27</td>
<td>North Kalimantan</td>
<td>2</td>
<td>0.20</td>
</tr>
<tr>
<td>28</td>
<td>Jakarta Special Capital Region</td>
<td>1</td>
<td>0.10</td>
</tr>
</tbody>
</table>

|          | Total | 985  | 100  |

When accumulated from 2015 to 2018, the number of violations of ASN neutrality can be seen in the following graph.

**Graphic 3.2**
Frequency of ASN Neutrality Violations in Regional Elections 2015-2018

Regarding data on complaints about violations of ASN neutrality, the 2018 Annual Report stated that the number of neutrality violation cases by ASNs in 2018 was 508. Out of these, 297 cases have been resolved, while 111 were still ongoing.

Meanwhile, related to the simultaneous elections held in April 2019, Bawaslu released 1,096 findings of violations related to the neutrality of ASN. In this regard, KASN is in the process of gathering evidence regarding the violation of the ASN neutrality (tempo.co, June 10, 2019). Until this report was prepared, we have not obtained data on the progress of KASN’s resolution of these cases.

In handling reports on violations of ASN neutrality, KASN (2019) follows the following procedure:
Explanation of Neutrality Violation Complaint Handling by KASN

a. **Complaint by Ministry/Agency/Service Office/Community:** In receiving reports/complaints related to violations of ASN neutrality, one source of complaints is the Ministry (K), Agency (L), District Office (D) and/or from the community. In 2018, there were all four sources of complaints, however, most complaints originated from the community, compared to Ministry/Agency/District Office. Community members who filed complaints also varied, including individuals, NGOs, and even other ASN. What is notable in the tracking of complaints received by KASN is that participation from the same government agencies where the ASNs work is minimal. In several discussions and FGDs conducted by Pokja PPS-KASN team, it was found out that ideally this neutrality monitoring system has a whistle blower system as an effort to control neutrality internally.

Reports/complaints received by KASN related to violations of neutrality also come from the Monitoring and Evaluation (Monev) activities carried out by KASN itself. Reports of violations of ASN neutrality originating from Monev usually come from news from newspapers, magazines, online news portals, to information coming from social media (viral news) and evaluation activities from the Monev Team in coordination...
with the Complaints and Investigation Working Group. In addition, so far KASN has also established cooperation in the form of an MoU with Bawaslu to receive complaints/reports of specific violations concerning the simultaneous regional elections. Reports related to violations of ASN neutrality came from the community individually and through NGOs and from the Provincial/Regency/City Bawaslu. Complaints from the public are often made directly, including in this case complaints originating from the ASN itself.

b. **Case Analysis:** After the report has been submitted, it will be received by KASN and continued by verification of the violation by the KASN team. Verification results will show whether the complaint/reporting has an indication of violation or not. If there is no indication of a violation then the case will be terminated, and if there is an indication of a violation then the case will proceed with an investigation.

c. **Case Investigation:** After the case verification process is completed and there are indications of violation of the neutrality of ASN, then the next process is an investigation. In the investigation process the case is examined in more depth based on the reports that come in, both from the Ministry/Agency/District Office/Community, including from Bawaslu and the results of Monitoring and Evaluation (Monev). The investigation process will either result in a report that a violation has been proven, or not proven. If a violation is proven, it will proceeded with the process of making a KASN recommendation, but if not proven, the case will be terminated by KASN.

d. **Preliminary Conclusion:** After the case investigation process was carried out by the Complaints and Investigation Working Group, a preliminary conclusion is reached.

e. **KASN Recommendation:** After the investigation process is complete, the KASN team will compile recommendations based on the results of the investigations. The recommendations describe the chronology of events, aspects of neutrality that were violated, and sanctions imposed based on applicable regulations. After the preparation of the recommendation is complete, the recommendation letter is submitted to PPK for further action.

If PPK does not follow up on the recommendation within a certain time period, KASN can provide a warning. If the warning is ignored, the matter will be brought to a coordination meeting attended by relevant officials from the KemenPAN-RB, Ministry of Home Affairs and BKN to decide on further actions, whether to mediate or be reported to the President, in accordance with applicable regulations.
From various literature collected from KASN, there is no data yet that shows the number of recommendations issued in the context of responding and completing complaints reports regarding the neutrality of ASN.

KASN findings show that during Regional Head Elections, structural officers often have an interest to keep their job\(^4\). Therefore, they are involved in the practical politics of supporting certain candidates. Here the officials make use of the “capital” they have, namely the influence as structural officials over their staff. This “capital” is then used by instructing subordinates to vote for the candidates they support. No doubt, in the end the ASNs under their supervision become actively involved in campaigning for the candidate preferred by their superior.

This process will then lead to two possibilities. If the supported candidate is elected, the structural officials will be retained or promoted to higher positions. But if the candidate lost, they also risk losing their position. This situation cannot be avoided, because the regional head according to PP No. 11 of 2017 concerning Management of Civil Servants is the Staff Supervisory Official (PPK). According to the ASN Law, PPK has the authority to appoint, transfer and terminate ASN, among other things. Thus, in his position as PPK, the elected regional head will use his authority to appoint or dismiss ASN in accordance with his political interests, based on his authority.

In fact, the authority of PPK is not only as mentioned above. PPK also has the authority to punish ASN for violating the code of ethics. Referring to PP No. 42 of 2004 as affirmed by the KemenPAN-RB circular, violations of neutrality in the General Elections and Regional Elections are included among violations of the code of ethics. In the case of structural officials and staff conducting campaigns to support certain candidates as described above, the regional head as PPK should impose sanctions. However this is never done. Herein lies the ambiguity in the implementation of PPK’s authority in dealing with violations of ASN neutrality. It is thus natural that recommendations submitted by KASN to PPK related to violations of the neutrality of ASN in the elections do not receive a positive response from PPK. As a result, sanctions for ASN who commit violations become ineffective, and no deterrent effect is caused.

The effectiveness of KASN recommendations regarding violations of ASN neutrality can be said to be related to the role of other institutions, namely the KemenPAN-RB, the Election Supervisory Body (Bawaslu), the State Personnel Agency (BKN) and the Ministry of Home Affairs.

KemenPAN-RB has issued Circular of the Ministry of Administrative Reform No. 06/M. PANRB/II/2016 on the Implementation of Neutrality and Enforcement of Discipline and Sanctions for ASN in the Simultaneous Implementation of Election of Governor and Vice Governor, Regent and Deputy Regent, and Mayor and Deputy Mayor in 2017, which states that:

a) Violation of ASN Neutrality can also be in the form of a violation of the code of ethics or violation of discipline.

b) The sanction for violations of the code of ethics is in the form of moral sanctions, may also be subject to administrative sanctions in the form of disciplinary sanctions.

c) Monitoring of neutrality violations is forwarded to KASN, then submitted to PPK for further action.

d) The PAN-RB Minister has the authority to impose sanctions upon lack of follow up to KASN recommendations.

Bawaslu is tasked with overseeing the holding of elections in all regions of the Republic of Indonesia, including compliance of all parties involved in the holding of the Presidential Election, Legislative Election, and Regional Election, including the neutrality of the ASN, TNI.
and Members of the National Police. Bawaslu has the authority to provide recommendations to agencies authorized to impose sanctions on those who commit violations.

Regarding violation of ASN neutrality, the monitoring by Bawaslu is carried out through:

a) Receiving complaints from the public or own findings about alleged violations.

b) Conducting verification and investigation of existing violation cases.

c) Delivering the results of the investigation to the relevant agencies, in this case KASN, to be followed up.

The BKN is a non-ministerial body tasked with carrying out governmental tasks in the field of state employee management. BKN supervision of neutrality in ASN is not done directly. The results of the KASN recommendations to PPK related to neutrality violations committed by ASNs were submitted to BKN as well as being an input for BKN in supervising and controlling the implementation of ASN norms, standard procedures and management criteria. If the PPK does not implement the recommendations set by KASN for violations of the principle of neutrality committed by its subordinates, the BKN can request the PPK and the Authorized Official (PyB) to immediately implement them. When the PPK or PyB do not take action against subordinates violating the principle of neutrality, BKN can block the data of the civil servants who commit the violations and consequently making them unable to be promoted.

The Ministry of Home Affairs, in relation to overseeing the neutrality of ASN, has the authority to supervise the administration of government in the regions. Therefore, the Ministry of Home Affairs can give a warning to PPK if it ignores the recommendations issued by KASN.

When referring to the conditions in which KASN recommendations related to violations of ASN neutrality were not followed up by PPK, it can be said that support from other institutions was not optimal. Yet when examined further, Minister of PAN-RB can impose moral sanctions and administrative sanctions on PPK especially in ministries/agencies that do not follow up on KASN recommendations. Likewise, the BKN can request PPK and the Authorized Official (PyB) to immediately implement the recommendations given by KASN. If PPK and PyB do not implement it, BKN can impose sanctions in the form of blocking the data of civil servants who commit violations and consequently preventing the employee from being promoted. Meanwhile, the Ministry of Home Affairs can also give a reprimand to the PPK in the Regional Government (Province and District) which ignores recommendations from KASN related to violations of ASN neutrality.
“After they learned about the leak, the monitors felt pressured, and burdened. This was especially apparent when asking for permission to confirm with the provincial Bawaslu, the complainant objected, because there might be another leak.”

M. Syofi’i, Monitoring Coordinator from Semarang

“A lot of my friends who are ASN don’t know that posting, commenting and even clicking like on campaign posts violate the ASN code of ethics. Because of this, socialization regarding the neutrality of ASN is important. Besides inviting ASN to understand its position as a servant of the state, it also invites the public to take part in supervising.”

Septy Putri, ASN

“I’m still afraid to report. If my info is leaked, what about my own safety?”

Mila, CFD participant

“This action is one of our contributions to provide education and outreach to the public to maintain the neutrality of ASN not only in providing public services but also very importantly, in the implementation of elections. ASNs who are neutral and professional will be able to provide high quality public services.”

Roki Arnoldus Nggili, monitor from CSO
CONCLUSIONS AND RECOMMENDATIONS


4.1 Conclusions

From the analysis of the findings of violations of ASN neutrality, the following conclusions can be drawn:

1) **The Civil servant (ASN) is in a dilemmatic position regarding neutrality in politics, especially elections and regional elections.** On the one hand, the ASN is in a dependent position towards their PPK, who is a political official, but on the other hand, they must continue to be able to carry out their duties including in public services without differentiating the origin of the groups and political affiliations. This dilemma is caused by the unique position of ASN, which must be neutral, but has the right to vote, which if used, then in fact they are supporting one candidate and ignoring other candidates. This also encourages ASN to violate the code of ethics, especially neutrality. Because of that, there was a proposal to revoke ASN’s right to vote, so that they have the same position as members of the TNI and Polri who do not have the right to vote.

2) **ASN’s neutrality has a strategic position,** because it is a precondition for increasing ASN’s professionalism in public services that is rapid, transparent, fair and impartial to one party. Still, the quality of public services is still widely complained of by the public, which can be seen from the relatively high number of reports of maladministration complaints in the administration of public services from the public to the Indonesian Ombudsman.

3) **Aside from being a public policy implementer and public servant, ASN also functions as the adhesive and unifier of the nation.** This latter function is a manifestation of the oath and promise made when appointed as ASN, who in carrying out their duties always prioritize national unity and integrity. Non-neutrality of ASN has implications for the occurrence of differences in treatment (discrimination) that can trigger conflict and national disintegration.

4) **The supervision of the neutrality of ASN is carried out by KASN,** which in carrying out its duties is authorized to request information from both the public and ASN to obtain reports of violations of the neutrality. Based on the report, KASN conducts an examination to prove whether or not the violation reported is true, and requests documents or clarification from government agencies in support of the verification process. After finding evidence of violations, KASN then submits the results of the examination to PPK for further action. The follow up is a written statement regarding the violation of the code of ethics in writing. Thus, although the oversight function is held by KASN, KASN...
is not authorized to impose sanctions, because the authority to determine sanctions for ASN is in the hands of PPK. The ASN supervision function carried out by KASN is similar to the oversight function of judges conducted by the Judicial Commission (KY). The difference is in the mechanism of enforcement of sanctions. If the recommendations are not implemented by the PPK, KASN then reports to the President and propose sanctions to the PPK in question. Meanwhile KY recommendations only stop at the Supreme Court leadership level, because the determination of sanctions against judges’ violations is final in the Supreme Court leadership. Because of its final nature, it is reasonable if the KY Law also regulates the mechanism of verification or joint inspection between the MA and KY if it finds a violation report that has not yet been proven clear. This mechanism is implemented to apply the precautionary principle in enforcing sanctions. This mechanism is not regulated in the ASN Law. In the ASN Law there is no regulation regarding the verification mechanism or joint discussion between KASN and PPK, and between KASN and the President. The limited authority of KASN and the absence of a verification mechanism or joint discussion contributed to the low follow-up of the KASN recommendations by PPK.

5) The non-follow-up of KASN recommendations related to violations of ASN neutrality by PPK is also related to the lack of optimal support from other institutions, especially from KemenPAN-RB, BKN and the Ministry of Home Affairs.

4.2 Recommendations

Based on the findings and analysis conducted, it is considered important to submit several recommendations in order to minimize violations of ASN neutrality and ensure that violations of ASN neutrality can be followed up effectively, namely:

1) Enforcement of the ASN code of ethics and code of conduct, especially related to the neutrality of ASN, will determine the implementation of policies and the quality of public services, so ASN must be neutral and not politicized. Therefore, it is proposed that in the Election Law, the right to be elected and to elect an ASN be reviewed to be abolished, as is the case with the TNI and Polri. This is because ASN’s strategic position has the opportunity to violate neutrality, especially during elections.

2) Strengthening the authority of KASN so that recommendations issued can be carried out effectively, especially by PPK. This can be done through revising the KASN Law, especially in articles related to KASN authority and inserting clauses regarding joint verification mechanisms between KASN and PPK and between KASN and the President. The revision of the ASN Law also includes reducing as much as possible the influence or political interest in the bureaucracy through the elimination of
the role of PPK by politicians and handing it over to bureaucratic career officials.

3) **Optimizing support from KemenPAN-RB, BKN and the Ministry of Home Affairs to ensure KASN recommendations are followed up by the PPK through a collaborative approach by issuing a Joint Decree that requires PPK to follow up on KASN recommendations and report the results through certain mechanisms and time periods.**

4) **The KemenPAN-RB and KASN need to develop guidelines and/or mechanisms for ASN in the use of social media related to the ASN code of ethics and code of conduct, specifically ASN neutrality.** The guideline covers monitoring by KemenPAN RB and KASN on the use of social media by ASN. This is important to maintain the neutrality of ASN, while minimizing the potential for violations of codes of conduct and other codes of behavior such as the spread of hoaxes, which tend to spread through social media.

5) **The KASN monitors an area covering all of Indonesia, but the KASN office is only found in DKI Jakarta.** As a result, KASN has limitations in reaching and finding out violations committed by ASN that are located outside DKI Jakarta. Therefore, collaboration with civil society organizations such as PATTIRO and CSO partners is important as part of support to create a neutral and professional ASN and overcome the limitations of KASN itself. For this reason, it is considered important for KASN to expand this monitoring collaboration with other parties. For example with other CSOs, professional organizations and mass media.

6) **The KASN needs to carry out educational campaigns that are carried out massively through social media and mass media regarding the code of ethics and code of conduct of ASN, because most people are not aware of this.**

7) **The KemenPAN-RB and KASN need to develop clear and detailed procedures and/or mechanisms regarding protection to monitors for reports submitted regarding violations of the ASN code of conduct and code of conduct.**

8) **The KemenPAN-RB and KASN need to ensure follow-up on reporting and enforcement of sanctions in accordance with Government Regulation No. 53 of 2010 concerning Discipline of Civil Servants and other related regulations including leave for ASN spouses who are running as candidates for the election, as stated in Circular Letter (SE) of the Minister of PAN-RB Number B/36/M.SM.00.00/2018.**
Bibliography


“We appreciate the work done in monitoring violations of ASN neutrality by PATTIRO and CSOs. This is a form of public participation in election surveillance. We hope you can continue to work together with Bawaslu for the next election. Violations of ASN neutrality will be higher.”

Abhan, S.H., M.H. BAWASLU Chairman.

“The thank you to the PATTIRO, CSO and CEGAH that have helped KASN with their information, survey and study. Thank you for organizing activities like this, especially monitoring the neutrality of ASN, and taking part in disseminating Lapor KASN.”

DR. Ir. Nuraida Mokhsen, MA. Commissioner of Working Group on System Analysis and Development, KASN.

“Thank you to all supporters of this event, let’s campaign for ASN Neutrality, ASN the adhesive and unifier of the nation. Thank you.”

Hardianawati, Director of Supervision and Control of Ethics, Discipline, Termination and Retirement of Civil Servants, BKN.

“On behalf of the Ministry of PANRB I can only express appreciation for this activity to be able to bring together all agencies that conduct supervision of ASN Neutrality, so that there are similar opinions and perceptions. To PATTIRO continue working on this, this is the openness of the community in helping the government. We thank USAID for helping KemenPAN-RB, and also for the media to continue to educate about ASN neutrality. Thank you.”

Rosdiana, Head of the Section of Disciplining of Apparatus Human Resources, Ministry of State Apparatus and Bureaucratic Reform.